AREA OF FOREST EXCLUSIONS IN THE TALAPPALLI TALUK

345. Mr. V. K. Krishnankutty *(Ezhuvas-Trichur):* Will Government be pleased to state.—

(*a*) the area of Sirkar Forest lands in Talappalli Taluk at the beginning of the year 1114;

(*b*) whether applications have been received for assignment of any portion of the Sirkar forest land (subsequent to 1st Chingam 1114 till 1st Chingam 1116);

(*c*) if so, the names of the applicant or applicants;

(*d*) the tax paid by the applicant or applicants on other lands owned or possessed by him or them;

(*e*) how the applications were disposed of?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* (*a*) 33,068 acres approximately.

(*b*) Yes.

(*c*), (*d*) & (*e*) A statement containing the required particulars is placed on the Council Table.

PRAWN FISHING IN EDAVANAKKAD—APPLICATION FOR LICENSE—REFUSAL OF

346. Mr. E. Ikkanda Warriar *(Cheruthuruthi):* Will Government be pleased to state.—

(*a*) whether Kizhakeveetil Kadar Haji Kunju Mahamad, Bhaskara Paniker and others did not apply for a license for prawn fishing this year from their lands in Edavanakkad village to the Diwan Peishkar;

(*b*) what are the reasons for not granting the license;

(*c*) did they not appeal to Government from the Diwan Peishkar's order;

(*d*) what are the reasons for dismissing the appeal;

(*e*) will they be pleased to place copies of the Diwan Peishkar's orders and the order of Government on the Table?

Mr. A. Madhava Prabhu *(Diwan Peishkar):*

(*a*) Yes.

(*b*) Chiefly for the reason that the applicants are not entitled to the license according to the Diwan Peishkar.

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(*c*) Yes.

(*d*) Government did not want to interfere with the Diwan Peishkar's final orders, on the ground no appeal is provided by the rules against the Diwan Peishkar's orders in such matters.

(*e*) A copy of the Memo dated 27th February 1941 (16th Kumbham 1116) issued by the Diwan Peishkar is placed on the table. Government do not think it expedient to place a copy of the Government order also on the table.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* Is not the land in question suitable for prawn fishing?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Yes.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* Were not the applicants prepared to pay the required fee also?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* They were prepared.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* Is it not also a fact that it will not adversely affect the interests of the neighbouring cultivators?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* That is not the point at issue.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* Is it a fact that by granting license to these applicants the interests of the adjoining cultivators will not be affected?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* They have nothing to do with it.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* Was not prawn fishing carried on in their lands till this year?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* To the knowledge of this department, prawn fishing has never been carried on in these fields.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* The question is whether prawn fishing was not carried on there till this year.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* "Never". That is the answer.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* May I know what is the reason why the Diwan Peishkar refused license?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* It has already been answered, that they are not entitled.

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Mr. E. Ikkanda Warriar *(Cheruthuruthi):* Sir, beyond the *ipse dixit* of the Diwan Peishkar, there is nothing in the answer. I want to know the reason why the license was refused. They have conformed to all the rules published till now and yet the Diwan Peishkar says they are not entitled, and he refused to give the reason why he refused it.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* It is wrong to characterise the Diwan Peishkar's refusal his *ipse dixit* before you understand the whole matter.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* You don't give your reasons in your answer.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* I am going to say it. The way in which these things are being done is this. There are a number of *poromboke* canals. On either side of these canals there are paddy fields. At the end of every year, we auction the right of fishing in these *poromboke* canals in the next year. When the right of fishing in these canals is auctioned, the right of catching the fish generated in the adjoining paddy fields goes along with it. But the lessees are not allowed to fish in those private lands. The usual practice is this. Water has to be let into these paddy fields through these canals and let out also only through these canals. At the end of the canal there is a sluice. Through that sluice, all the water that is allowed to get into the *poromboke* canal and the paddy fields on either side is let out. There fishing is taking place. No fishing is allowed in the paddy fields. That is how things have been going on so far as our department is concerned.

This particular canal is also of that type. Last year the owners of the fields and year before last, some stranger took it up. The owners did not at all apply for license in any of these years. The right of catching fish in the *poromboke* canals carries with it the right of catching fish generated in the water let into the adjoining fields as well. This year, after the right in all the other *poromboke* canals was sold in auction this was the last one. I knew they wanted to create difficulties and that if I took it up first, I will be creating a chaos. Therefore, after the whole thing was over, practically towards the end of Thulam, I went there once, and called the owners. The Superintendent of Fisheries went there four or five times. They won't agree to take up the canal for a reasonable rent. Then I called upon another person and gave him the lease. The next day these people came with an application for license and I refused it. I said that I will be going against the interest of the whole State. I cannot undertake so much of responsibility. I said, "I have already given the right of fishing to a third party. How can

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I give it to you?" If I did it, I will be inviting a number of suits against the Government by other persons who may also come and say, "we want license to fish in our adjoining paddy fields." I cannot undertake so much of responsibility. According to our own experience, last year, they were themselves the lessees. They took the lease of the *poromboke*. They did not ask for the prawn fishing license, because they were conscious that the practice was this. Simply because I happened to be the Diwan Peishkar I cannot make an exception and violate the rules. It is not the *ipse dixit* of the Diwan Peishkar. It is a long established and time-honoured principle.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* May I know the extent of the *poromboke* area?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* One and odd acres, I think.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* And it is that which you have leased out for Rs. 200?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* When the right of fishing is auctioned, the right of catching the fish generated in the adjoining field goes with it.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* Under what law did the Government get the right to lease out the right of fishing in the adjoining land?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* That is what has been done all these years.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* Is it sanctioned by any laws or rules? Here is a private owner who is under the Act entitled to cultivate prawn fishing in his land. The Government claims that because they own one and odd acres of *poromboke* canal in between the private lands, they have a right to fish from all the thirty to forty acres of that private land. Is that the position of the Government?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* My hon'ble friend is assuming that he has got a right to fish in his private lands.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* That is so. I maintain that he has.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Nobody has got a right to catch fish from a land on the ground that it is his private property. The *patta* that is given to you enable you to grow paddy and nothing else. The fish is generated in the salt water, that is in

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the back water and therefore, when water is let in, whether it is in your land or *porombоke*, unless we consent to it you have no right to catch a single fish.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* But you have to give the license, if the rules are complied with. How on earth did Government get the right of fishing from private lands? The Diwan Peishkar now says that because he has got one and odd acres of *porombоke* in between many acres of private lands, he has leased out the right of fishing in this *porombоke* which took in the right of fishing from the private lands. Is that the position of the Government?

Mr. A. Madhava Prabhu *(Diwan Peishkar):* How did you get this right? I say you have no right.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* Under the latest amendment of the Fisheries Act and the rules framed thereunder.

This is a very interesting matter. On either side of the *porombоke thodu* there are several acres of land belonging to private persons. If they want to carry on prawn fishing in their lands they have to bund up that portion between the *porombоke thodu* and their lands. In order to avoid the trouble and expense on this account, they went to the Sirkar. But the Sirkar auctioned the right to fish from the *porombоke thodu* with the right of fishing from the applicant's fields also. They had a right under the Act to get a license for the prawn fishing. The conditions necessary for granting a license are whether it is suitable for prawn fishing and whether it would affect the neighbouring lands adversely. Those conditions are satisfied in the instant case. They made an application this year. They were told that the Diwan Peishkar had already licensed the same to other people. I ask how this other person is entitled for the license?

Mr. K. Ayyappan *(Ezhuvas-Kanayannur):* If they have done so, it will be a very bad practice. It will be influencing the Departmental Heads unduly.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* May I know, Sir, the reasons that weighed with the Government in refusing the license?

Mr. President : From what you say, I think it is a question of disputed right which should be settled in a court of law. The Diwan Peishkar has already given the license. If anybody encroached upon one's property, it is open to him to prevent it and to file a suit and get an injunction.

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Mr. E. Ikkanda Warriar *(Cheruthuruthi):* That other has been prevented; but he has a right to get a license for himself.

***Dr. A. R. Menon** *(Minister for Rural Development):* Sir, I want the House to understand the position. In olden times these canals were auctioned indiscriminately and given to the highest bidder. Subsequently, there were representations from the agricultural interests concerned that these canals are not opened or closed down at the proper time and that the prime consideration is only fishing without regard to the agricultural interests. When I was put in charge of this Department, I, in consultation with the previous and the present Diwan Peishkars, suggested that some method should be adopted so that these canals may be given in auction to the adjacent land-holders themselves. In many cases we have succeeded in giving these canals to the adjacent land-holders themselves so that such difficulties may not arise. But human nature being what it is, what took place is this. The moment we restricted it to the landholders they took advantage of the situation and began to bid for Rs. 300 or Rs. 400 and then re-auction it for Rs. 1,500. In all these cases our order is to take the previous three years dues, find the average and give it to the landholders even without auction. But the landholders did not behave properly as Government anticipated they would, and in some cases they even refused to take the canal because they knew perfectly well that the Government will only give the canals to themselves. Therefore, in such cases the Diwan Peishkar was compelled to take action and he was given liberty where he thinks fit to take action on his own initiative and on his own responsiblity. Now, he has taken that responsiblity, and as was mentioned here there is no appeal to his decision.

Mr. E. Ikkanda Warriar *(Cheruthuruthi):* The question is whether that landholder was not entitled to get a licence.

Mr. President: It refers to a question of law. The Diwan Peishkar has taken up a strong attitude with regard to this question. So you must take the necessary steps in a court of law to prevent the Diwan Peishkar from auctioning or obtain authority to exercise your right of fishing.

GIRLS' HIGH SCHOOLS—POSTINC OF OFFICIATING HANDS

347. Mr. C. V. Iyyu *(Kunnamkulam):* Will Government be pleased to state.—

(*a*) the number of officiating hands posted as teachers to

*Speech not corrected by the hon'ble member.

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